

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

FILED
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
MECKLENBURG CO., N.C. 10 Civ 23038

THE CARLISLE APARTMENTS, L.P.;
and MCCULLOUGH HARRIS, LLC,

Plaintiffs,

vs.

RECAP INVESTMENTS XI-FUND A,
L.P.; RECAP INVESTMENTS XI-FUND
B, L.P.; CARLISLE GP, INC. and GREP
SOUTHEAST, LLC;

Defendants.

**COMPLAINT AND MOTION FOR
TEMPORARY RESTRAINING ORDER**

Plaintiffs The Carlisle Apartments, L.P. and McCullough Harris, LLC ("Plaintiffs")
complaining of Defendants RECAP Investments XI-Fund A, L.P.; RECAP Investments XI-Fund B,
L.P.; Carlisle GP, Inc. and GREP Southeast, LLC ("Defendants") allege:

1. The Carlisle Apartments, L.P. is a limited partnership organized and existing under the laws of the state of North Carolina, with its principal office in Tampa, Florida.
2. McCullough Harris, LLC is a limited liability company organized and existing under the laws of the state of North Carolina, with its principal office in Tampa, Florida.
3. RECAP Investments XI-Fund A, L.P. is a limited partnership organized and existing under the laws of the state of Delaware.
4. RECAP Investments XI-Fund B, L.P. is a limited partnership organized and existing under the laws of the state of Delaware.

EE:00114937.

5. Carlisle GP, Inc. is an incorporated company organized and existing under the laws of the state of North Carolina, with its principal office in New York, New York.
6. GREP Southeast, LLC is a limited liability company organized and existing under the laws of the state of North Carolina, with its principal office in Tampa, Florida.

GENERAL ALLEGATIONS

7. On January 2, 2008, Plaintiff McCullough Harris LLC (as the general partner), RECAP Investments XI-Fund A, L.P. (as a limited partner), and RECAP Investments XI-Fund B, L.P. (as a limited partner) executed a limited partnership agreement forming The Carlisle Apartments, L.P. (the "Limited Partnership Agreement").
8. On January 2, 2008 a Special Warranty Deed transferred the parcel of property known as Phillips University Commons Apartments consisting of 372 unit garden-style apartment complex, located at 701 McCullough Drive, Charlotte, North Carolina, and generally described as being all of Tract 1, containing approximately 23.759 acres, and all of Tract 2, containing approximately 3.493 acres, as shown on plat survey recorded in Map Book 50 at page 21, Mecklenburg County Registry, which was transferred pursuant to the Special Warranty Deed recorded on book 23244, page (the "Property").
9. The terms of the Limited Partnership Agreement, McCullough Harris, LLC shall run the day-to-day operations of the apartment complex on the Property, including the receipt of rent funds and the payment of accounts payable.

CLAIM I

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BREACH OF CONTRACT

10. On the morning of November 12, 2010, RECAP Investments XI-Fund A, L.P., RECAP Investments XI-Fund B, L.P., and/or their agents, including without limitation Mark Schulder, Carlisle GP, Inc. and/or GREP Southeast, LLC appeared at the Property and took the keys from the apartment complex manager and seized control of the Property.
11. Defendants seizure of the Property was unlawful and breached the Limited Partnership Agreement.
12. Defendants have asserted, incorrectly, that it is now the general partner of Plaintiff The Carlisle Apartments, L.P.
13. Defendants have unlawfully attempted to seize Plaintiff The Carlisle Apartments, L.P.'s bank accounts and convert more than \$900,000 to Defendants own use, to the detriment of Plaintiffs.
14. Defendants actions, as alleged above, have breached the Limited Partnership Agreement.
15. Defendants breach of the contract has caused damage to Plaintiffs by, among other things, putting them in technical default of its loan obligations with Compass Bank.
16. Defendants unauthorized and unlawful seizure of the Property has further damaged Plaintiffs by depriving them of the rents that they receive as the manager of the apartment complex on the Property.

CLAIM II
INJUNCTIVE RELIEF AND
MOTION FOR TEMPORARY RESTRAINING ORDER

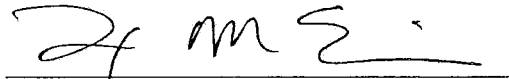
17. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.
18. Defendants unlawful seizure of the Property as described above has and will cause undue hardship and substantial harm to Plaintiffs.
19. By seizing the Property, Defendants are depriving Plaintiffs from rent funds, receipt of accounts receivable, and the rightful use of Plaintiffs' property, including all personal property and the Property.
20. By seizing the Property, Defendants are depriving Plaintiffs from the day to day operations of the apartment complex, including marketing and renting units to tenants, which shall materially damage Plaintiffs.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs The Carlisle Apartments, L.P.; and McCullough Harris, LLC pray:

1. Under Claim I, that Plaintiffs have and recover judgment against Defendants in such amount as Plaintiffs' evidence may disclose that it has been damaged as a consequence of Defendants' breach of contract, which exceeds \$15,000, plus attorneys' fees, costs, and interest at the legal rate from the date of default;
2. Under Claim II, for an injunction and temporary restraining order giving Defendants the Property and ordering Plaintiffs to vacate the Property and return all personal property, including keys, checks, mail, and documents, to Plaintiffs.

3. That the costs of this action be taxed against Defendants; and
4. For such other and further relief as the Court may deem proper.



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